

# **THE VETERINARY MEDICAL BOARD**

## **JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE REPORT TO THE CALIFORNIA LEGISLATURE**

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**Board Overview, Issues, Findings  
and Recommendations**

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**Prepared by:  
Joint Legislative Sunset Review Committee**

**APRIL, 1997**

# **JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE**

**Senator Leroy Greene**  
Chairman

## **Senate Members**

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Senator Richard Polanco

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Assemblymember Susan Davis (VC)  
Assemblymember Elaine Alquist  
Assemblymember Bill Campbell

## **Staff**

Bill Gage  
Consultant

## **Staff Assistance Provided By:**

Jay DeFuria  
Consultant  
Senate Business and Professions Committee

G.V. Ayers  
Consultant  
Senate Business and Professions Committee

Michael Abbott  
Consultant  
Senate Business and Professions Committee

Sailaja Cherukuri  
Analyst  
Legislative Analyst Office

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## **1.**

# **OVERVIEW OF THE CURRENT REGULATORY PROGRAM**

## **BACKGROUND AND DESCRIPTION OF THE BOARD**

The Veterinary Medical Board (VMB) was created by the California Legislature in 1893. Since its creation 103 years ago, the VMB has been a licensing program. The practice of veterinary medicine is regulated by licensure in all states and territories of the United States as well as in all provinces of Canada. Once regulated in these jurisdictions, veterinary medicine has not been deregulated.

The VMB regulates veterinarians, registered veterinary technicians, and veterinary facilities. Veterinarians currently use the title of Doctor of Veterinary Medicine (DVM) or Veterinary Medical Doctor (VMD) depending on the school from which they graduate, and veterinary technicians use the title of Registered Veterinary Technician (RVT).

The VMB regulates veterinarians by licensure, certifies (registers) veterinary technicians, and registers veterinary facilities.

## **GENERAL HISTORICAL NOTES**

In the first half of this century, the VMB concentrated its efforts toward developing a veterinary licensing program. In 1973 the VMB hired a full-time executive officer and began directing more efforts toward enforcement and discipline.

In 1979 the VMB established the nation's first facility registration program to assure sanitary conditions, proper storage and dispensing of pharmaceuticals, and prevention of disease transmission at veterinary facilities.

In 1984 the VMB enacted one of the profession's first alcohol and drug abuse diversion evaluation programs. In 1989 the VMB also established the nation's first citation and fine program for the veterinary profession. This allowed the VMB to pursue action against unlicensed activity as well as provide an additional mechanism for disciplining minor violations.

## **COMPOSITION OF THE BOARD**

The VMB is composed of six (6) members of which two (2) are public members and four (4) are licensed veterinarians. The four veterinarians are appointed by the Governor. One public member is appointed by the Senate Rules Committee and the other by the Assembly Speaker. Currently there are no vacancies on the board. The VMB states that

although an even number of members creates a potential for a tie vote, there has not been such a tie during the last six years.

All VMB members must be California residents for at least five years immediately preceding their appointment. Professional members must be licensed in California and active practitioners during the prior five years.

The board states that member attendance has not been a problem, however, the VMB recently adopted a policy that if a member is absent from more than three meetings within one term, the board will request that the appointing authority replace the member. Board members can be removed, after notice and hearing, for neglect of duty or other sufficient cause.

During the first half of this century, the number of licensed veterinarians was small and most services were provided in an agricultural setting for herd health. As the state became urbanized, the population of companion animals (pets) grew, paralleled by consumer demand for veterinary care. Today, most veterinary services are provided at privately owned veterinary facilities, mobile clinics, or by house-call practitioners. As of September 1996, 9,534 veterinarians were licensed to practice in California.

LICENSING DATA	FY 1992/93	FY 1993/94	FY 1994/95	FY 1995/96
<b>Licensed Veterinarians:</b>	Total: <b>9,078</b>	Total: <b>9,358</b>	Total: <b>9,360</b>	Total: <b>9,534</b>
Current				7774
Delinquent				1627
Other (deceased/retired)				133
Examination Candidates	742	589	539	745
Applications Received	369	290	261	—
Licenses Issued	292	290	261	292
Renewals Issued (biennially)	3,591	3,751	3,454	3,792
Statement of Issues Filed	0	1	0	1
Licenses Denied	0	0	0	0

## BUDGET AND STAFF

Since its inception, the only sources of revenue for the VMB have been from the professional community through permits, examinations, licensing and license renewals, and from fines. None of the VMB's revenue comes from the General Fund.

The fees collected from examination candidates support the examination program including purchasing the two-part national exam, developing the state exam and administering the tests. However, in 1995 the national licensing examination vendor raised its price from \$170 to \$305 per candidate (the first raise in eight years). The \$250 statutory limit for examination fees would have resulted in a \$48,000 per year revenue deficiency – therefore license renewals would subsidize examination costs.

To resolve the deficiency the board sponsored SB 1645 (Ayala, Chapter 404, Statutes of 1996). However the resulting legislation established a maximum fee of \$325. The net result is that a \$32,000 yearly deficit will still exist for the national examination. Under

SB 1645, licensing fees must still be utilized to subsidize fees for the national examination, thereby limiting the amount that could be spent on enforcement.

The board's projected expenditures for fiscal year 1996/97 are \$1,231,000, and anticipated revenues are \$1,177,125, thereby incurring an anticipated \$53,875 shortfall.

According to the 1996/97 Governor's Budget, the board's reserve June 30, 1996 was \$318,000. As of June 30, 1997, the board will have reserves estimated at \$223,000, or 18% of its total budget. The board does not expect to increase licensing fees in the next two fiscal years, but does expect to increase examination fees from \$250 to \$290 through regulation. Additionally, the board is proposing regulations to *decrease* the application fee for the state examination from \$240 to \$210.

For fiscal year 1996/97, the board expects to spend \$331,549 on the examination and licensing administration, or 27.5% of its total budget. The board expects to spend \$768,692 on enforcement, or 63.8% of its total budget. Other boards spend on average about 7% of their budget on examinations and 66% on enforcement.

In 1991 approximately \$969,000 was transferred from the VMB's Contingency Fund to the state's General Fund. Those funds are scheduled to be repaid in equal payments over a five-year period beginning on July 1, 1997.

The board has seven staff and seven authorized positions for 1995/96. In addition, a BCP was approved which provided for 1.8 personnel positions to alleviate an enforcement and examination backlog for FY 1996/97.

## FEES

The board's license is good for two years. Facility registration are renewed yearly. The board's current fee structure is as follows:

Fee Schedule (as of September 1996)	Current Fee	Statutory Limit
Application Fee (national exam)	\$250*	\$250**
Application Fee (state exam)	\$240 <sup>§</sup>	\$250
Original License Fee <sup>§§</sup>	\$200	\$250
Renewal Fee (biennial)	\$200	\$250
Initial / Annual Premise Registration	\$50	\$100

\* The VMB is proposing a regulatory fee increase to \$290

\*\* As of 1/1/97 the statutory limit will increase to \$325 (SB 1645, Ayala, Chapter 404, 1996)

<sup>§</sup> The VMB has proposed a regulatory change to decrease this fee to \$210

<sup>§§</sup> Initial licenses issued less than one year before the expiration date are 50% of the renewal fee.

## LICENSING REQUIREMENTS

To become a licensed veterinarian in California, a candidate must graduate from a four year graduate degree program at an accredited veterinary medical school and pass a two part national examination and a state examination.

Veterinary schools are accredited by the American Veterinary Medical Association (AVMA), the national professional association. Approximately 40 % of the VMB's applicants are graduates of the University of California at Davis, the only accredited veterinary school in California. However, 27 veterinary schools in the United States, four in Canada, and one in the Netherlands are accredited by the AVMA. The AVMA's accreditation process sets and monitors standards for clinical training and experience for students. Therefore, no additional experience is required for licensure after graduation from an AVMA accredited school. The VMB does not accredit veterinary schools.

The VMB administers both the two-part National Board Examination (NBE) and the California State Board (CSB), two times a year. Once one part of the examination is passed, a candidate is given 63 months to pass all parts of the examinations. The national examination is required for licensure in all jurisdictions of the United States and Canada.

- Approximately 400 candidates take the national board examination in California each year. The passage rate for 1996 was 65% on Part 1 and 72% on Part 2.

NBE PASS RATE FOR ALL CANDIDATES NATION-WIDE				
	NATION-WIDE		CALIFORNIA ONLY	
	PART 1	PART 2	PART 1	PART 2
92/93	71%	77%	57%	62%
93/94	71%	78%	58%	67%
94/95	69%	79%	55%	64%
95/96	74%	78%	65%	72%
<b>NOTE:</b> California's lower pass rate may be attributed to the high percentage of foreign trained graduates sitting for the examination. These candidates typically pass the exam at a much lower rate. See <i>PES Annual Report To Licensing Boards-1992-1996</i> .				

- To improve the examination and provide flexibility for the candidates, the AVMA's National Board Examination Committee (NBEC) is considering converting to a single part computer adaptive test that utilizes current technology to provide visual and audio enhancements. The VMB supports this change and has a member working on the project.
- The state examination is prepared under the guidance of the Department of Consumer Affairs' Office of Examination Research (OER) and is evaluated annually for content and whether it measures entry level competency. Because the national examination tests core knowledge common to all states and jurisdictions, the California examination tests for geographically specific conditions and diseases. The California examination also tests knowledge of California veterinary law. Over the last four years, the number of candidates for the state examination has varied between 375 and 510. The passage rate for 1996 was 64%.

CALIFORNIA STATE BOARD (CSB) EXAMINATION PASS RATE				
	FY 1992/93	FY 1993/94	FY 1994/95	FY 1995/96
<b>CANDIDATES</b>	387	453	375	510
<b>PASS %</b>	53	56	59	64
NOTE: First Time / Repeat Candidate data is not available.				



## **GRADUATES OF NON-ACCREDITED SCHOOLS, FOREIGN TRAINED AND RECIPROCITY APPLICANTS**

Graduates of non accredited schools must also complete an internship at an accredited school or pass a four day hands-on proficiency examination to apply for the examination. Foreign trained graduates must obtain a certificate from the Educational Commission for Foreign Veterinary Graduates (ECFVG). ECFVG standards for education and clinical training are regarded as comparable to that received at AVMA-accredited schools.

Veterinarians licensed in other states may be granted a license through reciprocity if they have no prior disciplinary action, have been practicing for four years, and have passed a state examination comparable to the California State Board examination. All reciprocity candidates must pass an open book California law and jurisprudence examination.

The VMB advocates adopting licensure by endorsement to improve professional mobility. This would apply to individuals who are licensed in another state, have a significant track record of practicing without disciplinary action, and would have met California's licensure requirements at the time initially licensed. According to the board, model language for licensure by endorsement could be modified to meet California's needs. However, the professional organization, the California Veterinary Medical Association (CVMA), opposes licensure by endorsement at this time. The association states that the subject has not been publicly discussed in California, and it is premature to be placed into statute without full public discourse.

## **CONTINUING EDUCATION/COMPETENCY REQUIREMENTS**

There is not a statutory requirement that veterinarians participate in continuing education (CE) as a condition for license renewal. The VMB along with the CVMA feels that continuing education is necessary in order to maintain continuing competency in a rapidly changing profession. However, the VMB has not reached a consensus on the best method for evaluating continuing competency. The VMB recommends a change in the statute to require "demonstration of continued competency" through objective evaluations.

The CVMA argues that the language proposed by the board is too broad and would give the board exclusive authority as to what is necessary and effective to protect the public, and removes all future discussion from the Legislature. The CVMA instead believes that statutorily requiring CE (a minimum of 30 hours every two years) will allow for greater consumer and industry protection in developing these standards.

For all disciplinary violations involving negligence or incompetence, the board requires the disciplined licensee to obtain mandatory remedial education, additional clinical training, and competency based examinations as a condition of probation.

## **ENFORCEMENT ACTIVITY**

The VMB averages of 3,000 inquires per year and sends out over 1,000 complaint forms. Over the past four years the VMB has handled 470 complaints a year. 85% of the complaints have come from consumers, and 7% from licensees.

90% of all complaints received are resolved within four to nine months, depending on their complexity. 8% are referred for formal investigation and are resolved within 10 to 21 months. The remaining 2% are referred for administrative disciplinary action and are resolved within two to three years.

The VMB's alcohol and drug abuse diversion evaluation program is administered through an interagency agreement by the Medical Board of California. Only one graduate of the diversion program has had a subsequent disciplinary action taken against his license for chemical abuse during the last four years.

ENFORCEMENT DATA	FY 1992/93	FY 1993/94	FY 1994/95	FY 1995/96
Inquiries	Total: 2,860	Total: 1,240	Total: –	Total: –
Complaints Received (By Source)	Total: 507	Total: 486	Total: 502	Total: –
Public	413	400	449	–
Licensees	48	30	34	–
Other	40	56	19	–
Complaints Filed (By Type)	Total: 507	Total: 486	Total: 502	Total: 386
Unlicensed Practice	58	51	42	64
Health and Safety	29	21	4	13
Fraud	25	4	5	2
Competence/Negligence	300	315	422	262
Unprofessional Conduct	59	65	23	27
Other	36	29	6	18
Compliance Actions	Total: 79	Total: 92	Total: 105	Total: 73
Citations Only	0	0	12	–
Citations with Fine	32	50	37	56
Cease & Desist (Unlicensed)	27	25	8	12
Warning Notice	0	0	0	–
Violation Letter	0	0	37	–
Informal Hearing/Conference	10	13	5	–
(Drug Diversion)	10	4	6	5
Investigations Opened	Total: 59	Total: 46	Total: 42	Total: 23
Disciplinary Actions	Total: 18	Total: 26	Total: 20	Total: 11
Accusations Filed	4	9	8	4
Accusations Withdrawn	1	0	5	1
Stipulated Judgments	2	3	0	–
Surrender of License	0	2	0	2
Probation	2	6	3	3
License Suspension	0	0	2	0
License Revocation	0	1	2	1
Criminal Actions Filed	9	5	0	–

## COMPLAINT DISCLOSURE POLICY

Members of the VMB are not involved in investigations or enforcement cases until final adjudication. The VMB does not disclose complaint information until a disciplinary decision has been adopted by the board. Once an accusation is filed with the AG, it is

public information. Final decisions are published in the VMB's newsletter and sent out as press releases to local newspapers in the vicinity where the licensee practices.

## **COST RECOVERY AND RESTITUTION TO CONSUMERS**

The VMB does not have authority to order that restitution be made to the consumer. Restitution to the consumer or public must occur through civil proceedings. The VMB states that it would support any efforts made by Department to develop authority for boards to order consumer restitution.

<b>COST RECOVERY</b>	<b>FY 1992/93</b>	<b>FY 1993/94</b>	<b>FY 1994/95</b>	<b>FY 1995/96</b>
Requested	\$7,000	\$4,300	\$37,600	\$53,400
Received	\$4,000	\$2,200	\$ 7,900	\$ 25,600

## **VETERINARY FACILITY INSPECTIONS**

Since 1979, the board has registered all veterinary facilities in California to assure sanitary conditions, proper storage and dispensing of pharmaceuticals, and the prevention of disease transmission. The following provides registration data for the past four years:

<b>REGISTRATION DATA</b>	<b>FY 1992/93</b>	<b>FY 1993/94</b>	<b>FY 1994/95</b>	<b>FY 1995/96</b>
<b>Practice Facilities:</b>	<b>Total: 2,285</b>	<b>Total: 2,359</b>	<b>Total: 2,346</b>	<b>Total: 2,958</b>
Current				2,433
Delinquent (includes closed)				102
Other (includes canceled)				423
Applications Received	107	124	151	—
Applications Denied	0	0	1	—
Licenses Issued	107	124	150	—
Renewals Issued	1973	2,209	2,208	—

The VMB contracts with two licensed veterinarians as independent contractors to perform facility inspections. These contracts, through the bidding process, have provided cost effective professional expertise. Approximately 15% of all registered facilities are inspected at-random annually. An additional 20-30 facilities are inspected each year as a result of consumer complaints. The VMB can initiate a temporary restraining order to close a facility in gross violation of the law. Each veterinary facility must have a licensed veterinarian named as its manager. The VMB enforces the Veterinary Practice Act only upon licensed veterinarians, however, many veterinary facilities are owned by corporations or other non-veterinarians. Without facility registrations requiring a licensed veterinarian as manager, there would be no control over standards of care in these facilities.

<b>Facility Inspections</b>	<b>FY 1992/93</b>	<b>FY 1993/94</b>	<b>FY 1994/95</b>	<b>FY 1995/96</b>
Inspections	200	392	306	384
Notices of violations	530	838	236	434

## **CONSUMER OUTREACH AND EDUCATION**

One of the VMB's goal established through strategic planning sessions was to produce a consumer information brochure. In 1994 the board published *Sharing the Responsibility of Your Pet's Health*. The brochure is distributed to consumers at booths at public places such as the State Fair, and is available at libraries, veterinary facilities and mailed to consumers. The VMB also information consumers through press releases regarding enforcement actions.

When a consumer files a complaint, the board notifies consumers of the status of the complaint throughout the process. They are notified when the complaint is: received, opened, closed, referred to the Division of Investigation or the Attorney General.

Currently, the board is investigating how it can use computer technology to provide the VMB's services to a larger population of consumers and licensing candidates to reach a larger audience, provide convenience, and decrease the time staff spends in answering routine questions. In 1995, the board sponsored SB 42 (Kelley, Chapter 60, Statutes of 1995) which, among other things, was designed to improve consumer access by changing the name of the board to the Veterinary Medical Board.

## **REGISTERED VETERINARY TECHNICIAN EXAMINING COMMITTEE (RVTEC)**

The VMB also registers veterinary technicians, and oversees the Registered Veterinary Technician Examining Committee (RVTEC). The VMB, the RVTEC and the CVMA (representing both RVTs and veterinarians) all recommend that the RVTEC be made into a sub-committee of the VMB. A review and preliminary recommendations for the RVTEC is contained in a separate document.

## 2.

### IDENTIFIED ISSUES AND FINAL RECOMMENDATIONS OF THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE

#### ISSUE #1. Should the licensing of veterinarians be continued?

**Recommendation:** *The State of California should continue the regulation of the practice of Veterinary Medicine.*

**Comment:** Veterinarians play a key role in food safety, preventing transmission of cross-species diseases, and providing health care for pets and animals. They ensure the health and safety in the production of livestock and poultry. Without regulation the public would be at risk from contaminated food products. Services provided by veterinarians cover a broad range of situations. The degree of skill and knowledge needed is comparable to that of physicians and surgeons. The practice of veterinary medicine is regulated in all states and territories of the United States.

#### ISSUE #2. Should the Veterinary Medical Board be continued as an independent board, or should its operation and functions be assumed by the Department of Consumer Affairs?

**Recommendation:** *The Veterinary Medical Board should continue as the agency responsible for the regulation of the practice of veterinary medicine. As such, legislation should be enacted to continue the Board and require a subsequent sunset review in six years.*

**Comment:** The Board has made several constructive and innovative changes to increase its overall effectiveness and efficiency, and provide better protection to the consumer. It has, among other things, established the nation's first facility registration program to assure sanitary conditions, proper storage and dispensing of drugs, and to prevent the spread of disease; (2) increased its use of cite and fine and other enforcement actions against those who violate the Veterinary Medical Practice Act, or its regulations; and (3) required competency examinations in certain disciplinary cases. There does not appear to

be any compelling reason to sunset the Board and allow the Department to assume its operation.

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**ISSUE #3. Should the composition of the Board be changed?**

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**Recommendation:** *No change.*

**Comment:** There are a majority of professionals on the Board with a total of 6 members: 4 licensed veterinarians, and 2 public members. The Department generally recommends a public majority and an odd number of members on regulatory boards, or at least achieving greater representation of the public where current board composition is heavily weighted in favor of the profession. The Department believes that the addition of one public member would improve balance consistent with those guidelines.

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**ISSUE #4. Should the Veterinary Medical Board's licensing fees be used to subsidize the Board's examination program?**

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**Recommendation:** *Application and license fees should not be used to subsidize the costs of exams. The schedule of fees should be separated to represent the actual activity being funded (i.e., application process costs vs. exam costs). Given the recent increases in the costs of exams, the Board should explore any potential reduction in the size and administration cost of the California examination which would not negatively affect the relevance and quality of the exam.*

**Comment:** The Board requires veterinarians to pass a national and state examination. It recently increased the fee ceiling on its national examination from \$250 to \$325. This, however, will not fully offset the costs to the Board of administering the National examination. It is unknown whether the California examination is self-supporting. License fees must be used to subsidize these examinations, thereby limiting the amount that could be spent on enforcement.

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**ISSUE #5. Should licensed veterinarians be required to undergo continuing education as a condition of license renewal, as recommended by the Board?**

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**Recommendation:** *Joint Committee believes that all proposals to implement continuing education requirements, as a prerequisite for license renewal, should demonstrate that the mandate will improve licensee competency and will have a measurable impact on consumer protection.*

**Comment:** There is no current statutory requirement that veterinarians participate in continuing education (CE) as a condition for license renewal. The Board is recommending that continuing education be required. While continuing education seems intuitively to be highly beneficial to licensees and the consumer public (especially for health care practitioners), there is no empirical evidence that demonstrates that a CE mandate improves practitioner competence. Other methods such as peer review, re-evaluation by boards, or competency examinations (as this Board provides) provides better assurance of continuing competency.

**ISSUE #6. Should out-of-state licensed veterinarians be required to take the California examination, or should the State permit for “licensure by endorsement” as recommended by the Board?**

**Recommendation:**

*The Joint Committee supports the concept of license by endorsement. The Joint Committee recommends that the Board continue to work with the profession, the public, the Administration, and the Legislature on identifying the most appropriate approach and specific requirements for licensure by endorsement. Suggest the Board hold a public hearing to discuss this issue with the profession and the public, and report back to the Joint Committee and Department by October 1, 1997.*

**Comment:** Currently, veterinarians licensed in other states must pass a California examination before they can practice in this State, and meet other specified requirements. The Board is recommending “licensure by endorsement” -- veterinarians who hold a valid license in another state should be granted a license in California, if they have been practicing for a sufficient length of time and have no history of disciplinary problems. The Joint Committee commends the Board for its progressive action to eliminate unnecessary barriers to licensure. The California Veterinary Medical Association is opposed to this concept. They argue that it has not been publicly discussed by the Board, and could affect the high standards maintained by veterinarians in this State.

**ISSUE #7. Should the State provide a limited licensure for out-of-state commercial poultry veterinarians as recommended by the Board?**

**Recommendation:**

*Joint Committee believes that the concept of licensure by endorsement as previously described would resolve this issue. The Joint Committee opposes the creation of specialty [limited] licensure absent compelling evidence of consumer risk that would be addressed through such*

*specialization. The State should not provide limited licensure for out-of-state commercial poultry veterinarians. The Board should provide a general policy for reciprocity for out-of-state licensees. This policy could include licensure by endorsement.*

**Comment:** The Board is proposing to exempt a very small, specialized segment of veterinary practice involving the commercial poultry industry from the current State licensure requirements. (Fewer than 5 veterinarians would be expected to obtain this limited license.) This raises the issue of further exempting other out-of-state specialty licensees, such as bovine, swine, and equine. Reciprocity should be consistent for all out-of-state licensees, it should not exempt some from licensure while mandating that others meet all of the state requirements.

**ISSUE #8. Should the definition of veterinary practice be changed to clarify what constitutes unlicensed activity as recommended by the Board?**

**Recommendation:** *No recommendation at this time.*

**Comment:** The Board states that there is currently a loophole in the definition of the practice of veterinary medicine which allows unlicensed individuals to treat animals. This would include the use of alternative therapies such as chiropractic, acupuncture, and massage therapy on pets and animals. (May also include “teeth cleaning” by pet groomers.) The Board wants to clarify that veterinary practice also involves the treatment of a “condition.” This would prevent anyone from treating a pre-existing “condition” when providing care for an animal. The use of the term “condition” could be very restrictive in its application. The Board provided only three cases in which unlicensed persons provided chiropractic care to horses and injury occurred, even though they claim to have received information from the profession on a “regular basis” concerning injuries to animals when these alternative therapies were used.